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LOK SABHA

The following Bills were introduced in Lok Sabha on the 29th April, 1964:—

BILL No. 44 OF 1964

A Bill to provide for the continuation and validation of proceedings in relation to Government dues and for matters connected therewith.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. This Act may be called the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964. Short title.

5 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "assessee", in relation to—

15 of 1940.

21 of 1947.

34 of 1953. 10

(i) the Excess Profits Tax Act, 1940, or the Business Profits Tax Act, 1947, means a person by whom the tax or any other sum is payable under that Act;

(ii) the Estate Duty Act, 1953, means a person accountable or accountable person as defined in that Act;

(iii) any other scheduled Act, means an assessee as defined in that Act;

15 (b) "Government dues", in relation to any scheduled Act, means any tax, duty, penalty, fine, interest, annuity deposit or any other sum payable to the Government by an assessee under that Act;

(c) "scheduled Act" means an Act specified in the Schedule;

(d) "Taxing Authority", in relation to any scheduled Act, means an officer (by whatever name called) empowered to serve upon an assessee a notice of demand in respect of any Government dues under that Act;

(e) "Tax Recovery Officer", in relation to any scheduled Act, means a Tax Recovery Officer as defined in that Act and where there is no such definition, means an officer (by whatever name called) to whom a certificate for the recovery of arrears of Government dues may be issued under that Act.

Continuation and validation of certain proceedings.

3. (1) Where any notice of demand in respect of any Government dues is served upon an assessee by a Taxing Authority under any scheduled Act, and any appeal or other proceeding is filed or taken in respect of such Government dues, then,—

(a) where such Government dues are enhanced in such appeal or proceeding, the Taxing Authority shall serve upon the assessee another notice of demand only in respect of the amount by which such Government dues are enhanced and any proceedings in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal or proceeding,—

(i) it shall not be necessary for the Taxing Authority to serve upon the assessee a fresh notice of demand;

(ii) the Taxing Authority shall give intimation of the fact of such reduction to the assessee, and where a certificate has been issued to the Tax Recovery Officer for the recovery of such amount, also to that officer;

(iii) any proceedings initiated on the basis of the notice or notices of demand served upon the assessee before the disposal of such appeal or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal;

(c) no proceedings in relation to such Government dues (including the imposition of penalty or charging of interest) shall be invalid by reason only that no fresh notice of demand was served upon the assessee after the disposal of such appeal or proceeding or that such Government dues have been enhanced or reduced in such appeal or proceeding;

Provided that if as a result of any final order such Government dues (other than annuity deposit) have been reduced and

the penalty imposed on the assessee for default in payment thereof exceeds the amount so reduced, the excess shall not be recovered and if it has already been recovered, it shall be refunded to the assessee on an application made by him to the Taxing Authority within such time and in such manner as may be prescribed by rules made under this Act:

Provided further that if the amount of penalty imposed on the assessee for failure to make any annuity deposit exceeds one-half of the amount of the annuity deposit required to be made as a result of such order, the excess shall not be recovered, and if it has already been recovered, shall be refunded to the assessee on an application made by him to the Taxing Authority within such time and in such manner as may be prescribed by rules made under this Act:

Provided further that where any Government dues are reduced in such appeal or proceeding and the assessee is entitled to any refund thereof, such refund shall be made in accordance with the provisions of that Act.

(2) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in any appeal or other proceeding under any scheduled Act.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority.

4. The Central Government may, by notification in the Official Gazette, add the name of any Central Act providing for the imposition or levy of any tax or duty in the Schedule and on the issue of any such notification, the Act so added shall be deemed to be an Act specified in the Schedule within the meaning of clause (c) of section 2.

Power to
amend the
Schedule.

5. The provisions of this Act shall apply and shall be deemed always to have applied, in relation to every notice of demand served upon an assessee by any Taxing Authority under any scheduled Act whether such notice was or is served before or after the commencement of this Act.

Act to
have re-
trospecti-
ve effect.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act as appear to it to be necessary or expedient for removing the difficulty.

Power to
remove
difficulties.

Power to
make
rules.

7. (1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in 5 one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect, as the 10 case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(c)]

1. The Indian Income-tax Act, 1922 (11 of 1922).
 2. The Excess Profits Tax Act, 1940 (15 of 1940).
 - 5 3. The Business Profits Tax Act, 1947 (21 of 1947).
 4. The Estate Duty Act, 1953 (34 of 1953).
 5. The Wealth-tax Act, 1957 (27 of 1957).
 6. The Expenditure-tax Act, 1957 (29 of 1957).
 7. The Gift-tax Act, 1958 (18 of 1958).
 - 10 8. The Income-tax Act, 1961 (43 of 1961).
 9. The Super Profits Tax Act, 1963 (14 of 1963).
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STATEMENT OF OBJECTS AND REASONS

Recently in the case of *Income-tax Officer, Kolar and another vs. Seghu Buchiah Setty*, the Supreme Court had occasion to consider the scope of sections 29 and 45 of the Indian Income-tax Act, 1922, and it has been held in that case that when a demand levied by the Income-tax Officer as a result of an assessment is varied by an appellate or revising authority, the original order of the Income-tax Officer merges into the order of such authority and consequently in all cases of an order varying the assessment, the original order goes and all steps already taken for the recovery of the demand become null and void and that in such cases it is the duty of the Income-tax Officer to issue a fresh notice of demand in the prescribed form and serve it upon the assessee. Though the judgment is with reference to the Indian Income-tax Act, 1922, which has been repealed but kept alive only for some limited purposes, the same interpretation may hold good with respect to the corresponding provisions in the Income-tax Act, 1961, and in the other Acts relating to the imposition of direct taxes.

2. The above decision of the Supreme Court will create difficulties in the collection of income-tax and other direct taxes. The number of assessments involved in the arrear demands of the direct taxes is nearly 6 lakhs and recovery certificates have been issued to Collectors or Tax Recovery Officers in approximately 2,25,000 cases and the revenue involved comes to Rs. 157 crores. In view of the above decision of the Supreme Court, in most of these cases, fresh notices of demand may have to be served upon the assessees and the assessees will have to be allowed a further period for paying the tax. It will be only after the expiry of the said period that fresh proceedings for recovery can be started. The result would be that recalcitrant assessees would get sufficient time to withdraw their funds or alienate their properties with a view to defeating the claims of revenue.

3. In order to overcome these difficulties, it is proposed to provide that in such cases, it shall not be necessary to take proceedings afresh or to serve fresh notices of demand except that in the case of an enhancement of assessment, another notice of demand shall be served upon the assessee with respect to the amount by which the assessment has been enhanced. Opportunity has also been taken to provide for certain matters which are ancillary to the above proposal.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND
274 OF THE CONSTITUTION OF INDIA

[Copy of letter dated the 25th April, 1964 from Shri T. T. Krishnamachari, Minister of Finance to the Secretary, Lok Sabha.]

* * * * *

The President having been informed of the subject matter of the proposed Taxation Laws (Continuation and Validation of Recovery Proceedings) Bill, 1964 has recommended under articles 117(1) and (3) and 274(1) of the Constitution the introduction of the said Bill in the Lok Sabha.

FINANCIAL MEMORANDUM

The Bill seeks to provide for the continuation and validation of recovery proceedings in relation to certain Government dues. Some expenditure on the administration of the Act may be involved, the extent of which cannot be foreseen at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. The matters with respect to which rules may be made are only matters of procedure and administrative detail. The delegation of legislative power is thus of a normal character.

BILL NO. 43 OF 1964

A Bill further to amend the East Punjab Ayurvedic and Unani Practitioners Act, 1949 as in force in the Union territory of Delhi.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1964.

(2) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint.

Amendment
of references
to State.

2. Throughout the East Punjab Ayurvedic and Unani Practitioners Act, 1949, as in force in the Union territory of Delhi (hereinafter referred to as the principal Act), for the word "State", the words "Union territory" shall be substituted.

East Punjab
Act 14 of
1949.

10

Amendment
of section 2.

3. In section 2 of the principal Act, after clause (3), the following clauses shall be inserted, namely:—

(3b) "Chief Commissioner" means the administrator of the Body;

(3b) "Chief Commissioner" means the administrator of the Union territory of Delhi, appointed by the President under article 239 of the Constitution;

(3c) "Examining Body" means the Examining Body constituted under section 31A;'

4. In sub-section (1) of section 3 of the principal Act, for the words "carrying out the provisions of this Act", the words "carrying out the functions conferred on the Board by or under the provisions of this Act" shall be substituted. Amendment of section 3.

5. In section 21 of the principal Act,—

Amendment of section 21.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Board shall, by regulations, recognise institutions as required under item (3) of the Schedule.”;

10 (b) in sub-section (2), for the words “by any of the institutions”, the words “by the Examining Body or by any of the institutions” shall be substituted.

6. In sub-section (2) of section 29 of the principal Act, after clause (k), the following clauses shall be inserted, namely:— Amendment of section 29.

15 (l) the term of office of the members of the Examining Body under sub-section (5) of section 31A;

(m) the fees and other allowances payable to members of the Examining Body for attending meetings under Sub-section (8) of section 31A.”.

20 7. In section 30 of the principal Act,—

Amendment of section 30.

(i) in sub-section (1), clauses (c), (d), (e), (f) and (g) shall be omitted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

25 “(1A) The Examining Body may, with the previous sanction of the Chief Commissioner, make regulations for—

(a) the time and place at which the Examining Body shall hold its meetings;

30 (b) the courses of study for training and qualifying examinations including the course of training and examinations prior to qualifying examinations;

(c) the language in which the examinations shall be conducted and instruction shall be imparted;

35 (d) the admission of students to the bodies or institutions authorised under section 21;

(e) the conditions under which students shall be admitted to the diploma, licence or certificate course and to the qualifying and prior examinations;

(f) the conditions of appointment of examiners and the conduct of examinations; 5

(g) any other matter which is required to be, or may be, prescribed by regulations.”;

(iii) in the first proviso to sub-section (3), for the words, brackets and letters “clauses (c) to (g)”, the word, brackets, figure and letter “sub-section (1A)” shall be substituted and for 10 the word “Board”, the words “Examining Body” shall be substituted.

Insertion of
new section
31A.

8. After section 31 of the principal Act, the following section shall be inserted, namely:—

Constitu-
tion and
functions
of the
Examining
Body.

“31A. (1) The Chief Commissioner may, by notification in 15 the Official Gazette, constitute an Examining Body to be known as “The Examining Body for Ayurvedic and Unani Systems of Medicine, Delhi”, for the purpose of holding qualifying examinations and examinations prior to qualifying examinations and prescribing the courses of study and training for such examina- 20 tions and other related matters.

(2) The Examining Body shall be a body corporate with the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and shall by the said name sue and be sued. 25

(3) The Examining Body shall consist of the following seven members, to be nominated by the Chief Commissioner, namely:—

(a) one member to represent the Ministry of the Central Government dealing with Health;

(b) one member to represent the Medical and Health 30 Department of the Administration of Delhi;

(c) one member who shall be a Professor of Modern Medicine or of Ayurvedic or Unani System of Medicine as the Chief Commissioner may determine;

(d) one member who shall be a Professor of Ayurvedic 35 System of Medicine;

(e) one member who shall be a Professor of Unani System of Medicine;

(f) a practitioner of repute of the Ayurvedic System of 40 Medicine;

(g) a practitioner of repute of the Unani System of Medicine;

and the Chief Commissioner shall nominate one of the members to be the Chairman of the Examining Body.

5 (4) The provisions of sections 11, 12 and 13 shall apply to the Examining Body as they apply in relation to the Board, subject to the modifications that references to the President therein shall be construed as references to the Chairman and the
10 reference to five members in sub-section (3) of section 13 shall be construed as a reference to three members.

(5) A member of the Examining Body shall hold office for such period as may be prescribed by rules by the Chief Commissioner:

15 Provided that the Chief Commissioner may, for reasons to be recorded in writing, remove any member before the expiry of such term:

Provided further that no order for such removal shall be made unless the member concerned has been given a reasonable opportunity to show cause against such removal.

20 (6) A casual vacancy in the office of a member of the Examining Body shall be filled by fresh nomination and the member nominated to fill a casual vacancy shall hold office only so long as the member in whose place he is nominated would have held office if the vacancy had not occurred.

25 (7) Any member of the Examining Body may, at any time, resign his office by letter addressed to the Chief Commissioner and the resignation shall take effect from the date on which it is accepted by the Chief Commissioner.

30 (8) There shall be paid to the members of the Examining Body such fees and allowances for attending meetings as may be prescribed by rules by the Chief Commissioner.

35 (9) The Examining Body shall, with the previous approval of the Chief Commissioner, appoint a secretary and such number of other employees as it may deem necessary and they shall receive such salary and allowances and be subject to such conditions of service as the Examining Body may, with the previous approval of the Chief Commissioner, prescribe by regulations.

40 (10) The secretary and other employees of the Examining Body shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

(11) In the performance of its functions under this Act, the Examining Body shall be bound by such directions as the Chief Commissioner may give to it in writing from time to time.”.

Amendment
of the
Schedule.

9. In the Schedule to the principal Act, in item (2), for the word “Board”, in the first place where it occurs, the words “Examining 5 Body” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Board of Ayurvedic and Unani Systems of Medicine, Delhi, created under the East Punjab Ayurvedic and Unani Practitioners Act, 1949 as in force in the Union territory of Delhi has been in existence since the year 1950 and is charged with dual functions of registering Vaidas and Hakims and holding qualifying and preparatory examinations. Experience over all these years has shown that this arrangement is not satisfactory. It is, therefore, proposed to entrust the functions of holding examinations and prescribing courses to a separate Examining Body leaving the Board with the task of registration, recognition of institutions and other related matters.

The Bill seeks to achieve the above object.

NEW DELHI;
The 22nd April, 1964.

SUSHILA NAYAR.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 22-24/64-RIJM, dated the 24th April, 1964 from Dr. Sushila Nayar, Minister of Health to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the East Punjab Ayurvedic and Unani Practitioners (Delhi-Amendment) Bill, 1964, recommends under article 117(3) of the Constitution the consideration of the said Bill in the Lok Sabha.

FINANCIAL MEMORANDUM

The proposed Bill provides for the constitution of a separate Examining Body to conduct examinations in Ayurvedic and Unani Systems of Medicine in Delhi which is at present conducted by the Board of Ayurvedic and Unani Systems of Medicine, Delhi. The proposed section 31A sought to be inserted by clause 8 of the Bill contemplates the constitution of an Examining Body. Sub-section (8) of that section provides for payment of fees and allowances to members of the Examining Body. Sub-section (9) of that section provides for payment of salaries and allowances to the employees of the Examining Body. It is not possible to estimate exactly the amount of expenditure involved but it is anticipated that an expenditure of approximately Rs. 30,000 per annum is likely to be incurred. However, there will be some reduction in the expenditure on the existing Board. The net additional expenditure on the Examining Body may be to the extent of Rs. 15,000 to Rs. 20,000 per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Chief Commissioner to make rules after previous publication in respect of the term of the members of the Examining Body and fees and allowances payable to them.

Clause 7 of the Bill empowers the Examining Body to make, with the previous sanction of the Chief Commissioner, regulations in respect of the courses of study for training and qualifying examinations, conduct of qualifying and prior examinations, etc. which functions were so far being performed by the Board.

These are matters of detail and the delegation of legislative power with respect to the matters aforesaid is of a normal character.

M. N. KAUL,
Secretary.

